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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,255	05/23/2005	Johannes Kaulfuss	GK-EIS-1083/500593.20075	5405

26418 7590 02/08/2007
REED SMITH, LLP
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599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

EXAMINER

LE. HUYEN D

ART UNIT	PAPER NUMBER
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2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/505,255

Applicant(s)

KAULFUSS ET AL.

Examiner

HUYEN D. LE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamanoi et al. (U.S. patent 4,463,223).

Regarding claims 8 and 10, Yamanoi teaches a hoop band (11, 12, 3, 4, 5, 5', 6, 6') having two ends (figures 1, 3) and an acoustic transducer (1, 2). As shown in figures 1 and 3, the hoop band extends arcuately in a plane, has a joint (7, 15, 16) and an elastic region (11, 12) as claimed. Yamanoi further shows that a respective connecting structure is arranged in the region of the two ends of the hoop band, and each structure is able to be connected to each other and in cooperating relationship hold the folded-in ends of the hoop band in a crossed position as claimed (figure 1).

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The headphone of Yamanoi in figure 1 does not specifically teach a second joint as claimed. However, providing a joint for pivoting the transducers is known in the art. Yamanoi shows a second joint (13, 14) for pivoting the transducers (1, 2, figure 3).

Therefore, it would have been obvious to one skilled in the art to provide a second joint, as shown in figure 3, for pivoting the transducers (1, 2) in figure 1 for better adjusting the transducers and folding the head phone compactly.

Regarding claims 9 and 13, as broadly claimed, the connecting structures of Yamanoi are openings in the ends of the hoop band that can be fitted one into the other, and then engage one into the other in positively locking relationship and clasp the crossed ends of the hoop band to each other as claimed (figure 1).

Regarding claim 11, as broadly claimed, Yamanoi shows the headphone set with the transducers (1, 2) that is pivoted into the plane and with the ends of the hoop band held in the crossed condition forms a flat unit with the transducers (1, 2) that are disposed in mutually juxtaposed relationship in the plane (figure 1).

Regarding claim 12, Yamanoi does not specifically teach the second joint (13, 14) that is a pivotable ball joint. However, providing a ball joint for pivoting the transducer is known in the art.

Since Yamanoi does estimate a pivotable joint for the transducer; it therefore would have been obvious to one skilled in the art to provide a ball joint for the pivot joint of transducer (13, 14) for better pivoting and adjusting the transducers.

Response to Arguments

3. Applicant's arguments filed 1/15/07 have been fully considered but they are not persuasive. Responding to that the transducers that are fixedly connected to the supporting members, the Applicant should note that Yamanoi does teach a second joint (13, 14) for pivoting the transducers (1, 2, figure 3).

Allowable Subject Matter

4. Claim 13 has been allowed.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HL
February 2, 2007


HUYEN LE
PRIMARY EXAMINER